

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN SENATE JUNE 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1974

Introduced by Assembly Member Gallagher

February 16, 2016

An act to amend Sections 27201 and 27288.1 of the Government Code, relating to the county recorder.

LEGISLATIVE COUNSEL'S DIGEST

AB 1974, as amended, Gallagher. County recorder: recordation of documents.

Existing law requires the county recorder, upon payment of proper fees and taxes, to record any instrument, paper, or notice that is authorized or required to be recorded, provided that the instrument, paper, or notice meets certain standards. Existing law also requires all documents authorized by law to be recorded in the official records of a county to contain specified information.

This bill would require the documents described above that are rerecorded to be executed and acknowledged or verified as new documents, unless otherwise exempted, as specified, presented solely to correct a rerecording sequence, or presented solely to make a minor correction, as defined, with a corrective affidavit. The bill would require the corrective affidavit to satisfy certain requirements, including a requirement that the corrective affidavit be certified under penalty of perjury. The bill would require each rerecorded instrument, paper, or notice to include a cover sheet and to state the reason for rerecording.

By imposing new duties upon local county officials with respect to the recordation of documents and by expanding the crime of perjury, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27201 of the Government Code is
2 amended to read:
3 27201. (a) The recorder shall, upon payment of proper fees
4 and taxes, accept for recordation any instrument, paper, or notice
5 that is authorized or required by statute, or court order to be
6 recorded, or authorized or required to be recorded by a local
7 ordinance that relates to the recordation of any instrument, paper,
8 or notice that relates to real property, if the instrument, paper, or
9 notice contains sufficient information to be indexed as provided
10 by statute, meets recording requirements of state statutes and local
11 ordinances, and is photographically reproducible. The county
12 recorder shall not refuse to record any instrument, paper, or notice
13 that is authorized or required by statute, court order, or local
14 ordinance that relates to the recordation of any instrument, paper,
15 or notice that relates to real property to be recorded on the basis
16 of its lack of legal sufficiency.

1 “Photographically reproducible,” for purposes of this division,
2 means all instruments, papers, or notices that comply with
3 standards as recommended by the American National Standards
4 Institute or the Association for Information and Image Management
5 for recording of records.

6 (b) (1) Each instrument, paper, or notice shall contain an
7 original signature or signatures, except as otherwise provided by
8 law, or be a certified copy of the original.

9 (2) A facsimile signature shall be accepted on a lien recorded
10 by a governmental agency when that facsimile signature has been
11 officially adopted by that agency. The lien shall have noted on its
12 face a statement to that effect. The officially adopted facsimile
13 signature shall be provided to the county recorder by a letter from
14 the agency. A facsimile signature shall continue to be valid until
15 the agency notifies the county recorder that the facsimile signature
16 has been revoked.

17 (c) (1) Each instrument, paper, or notice that is rerecorded shall
18 be executed and acknowledged or verified as a new document, in
19 addition to any previous execution and acknowledgment or
20 verification, unless any of the following apply:

21 (A) Otherwise exempted by Section 27287 or any other law.

22 (B) Presented solely to correct a recording sequence.

23 (C) (i) Presented solely to make a minor correction with a
24 corrective affidavit. The corrective affidavit shall satisfy all of the
25 following:

26 (I) Be attached to the original recorded instrument, paper, or
27 notice.

28 (II) Set out the information corrected.

29 (III) Be certified by the party submitting the affidavit under
30 penalty of perjury.

31 (IV) Be acknowledged pursuant to Section 27287.

32 (ii) For purposes of this subparagraph, “minor correction”
33 includes any of the following:

34 (I) An incorrect or missing name of the party requesting
35 recording pursuant to Section 27361.6.

36 (II) An incorrect or missing name and address of the party to
37 which the instrument, paper, or notice is to be returned following
38 recording pursuant to Section 27361.6.

39 (III) A clarification of illegible text pursuant to Section 27361.7.

1 (IV) An incorrect or missing printed or typed name of an
2 individual or entity near the signature pursuant to Section 27280.5.

3 (V) An incorrect or missing documentary transfer tax amount
4 due pursuant to Section 11932 of the Revenue and Taxation Code.

5 (2) Each rerecorded instrument, paper, or notice shall include
6 a cover sheet that complies with Section 27361.6 and shall state
7 the reason for rerecording on the cover sheet.

8 SEC. 2. Section 27288.1 of the Government Code is amended
9 to read:

10 27288.1. All documents described in this section now or
11 hereafter authorized by law to be recorded in the official records
12 of a county shall contain the following information in addition to
13 any information as may be required by law pertaining to the
14 particular document:

15 (a) If the document effects or evidences a transfer or
16 encumbrance of an interest in real property, the name or names in
17 which the interest appears of record, except that a notice of
18 assessment recorded pursuant to Section 3114 of the Streets and
19 Highways Code, a notice of special tax lien recorded pursuant to
20 Section 3114.5 of the Streets and Highways Code, and a notice of
21 award of contract recorded pursuant to Section 5248 of the Streets
22 and Highways Code, shall show the name or names of the assessed
23 owners as they appear on the latest secured assessment roll.

24 (b) If the document releases or terminates any interest, right, or
25 encumbrance, it shall contain or have appended thereto all of the
26 names of those persons and entities owning the title or interest
27 being relieved by the document, or the names of the owners of that
28 title or interest as they appeared at the time and in the document
29 creating the interest, right, or encumbrance.

30 (c) In cases where the county tax collector is filing purchaser's
31 deeds with respect to a sale for defaulted taxes, those documents
32 shall be deemed to constitute compliance with this section.

33 No document subject to this section shall be recorded or indexed
34 in the official records of a county unless it contains the information
35 required by this section as well as any additional information
36 required by law pertaining to the particular document, but the
37 recorder may rely upon the information contained in, or appended
38 to, the document being offered for record. The failure of any
39 document to include all of the names required by this section shall
40 not affect the constructive notice which would otherwise be

1 afforded by the recording of the document. This section shall not
2 apply to a vacation or abandonment by a public agency of a public
3 highway or road.

4 (d) If a document is rerecorded, it shall comply with subdivision
5 (c) of Section 27201.

6 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
7 ~~Section 6 of Article XIII B of the California Constitution for certain~~
8 ~~costs that may be incurred by a local agency or school district~~
9 ~~because, in that regard, this act creates a new crime or infraction,~~
10 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
11 ~~or infraction, within the meaning of Section 17556 of the~~
12 ~~Government Code, or changes the definition of a crime within the~~
13 ~~meaning of Section 6 of Article XIII B of the California~~
14 ~~Constitution.~~

15 ~~However, if the Commission on State Mandates determines that~~
16 ~~this act contains other costs mandated by the state, reimbursement~~
17 ~~to local agencies and school districts for those costs shall be made~~
18 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
19 ~~4 of Title 2 of the Government Code.~~

20 *SEC. 3. No reimbursement is required by this act pursuant to*
21 *Section 6 of Article XIII B of the California Constitution because*
22 *a local agency or school district has the authority to levy service*
23 *charges, fees, or assessments sufficient to pay for the program or*
24 *level of service mandated by this act or because costs that may be*
25 *incurred by a local agency or school district will be incurred*
26 *because this act creates a new crime or infraction, eliminates a*
27 *crime or infraction, or changes the penalty for a crime or*
28 *infraction, within the meaning of Section 17556 of the Government*
29 *Code, or changes the definition of a crime within the meaning of*
30 *Section 6 of Article XIII B of the California Constitution.*